

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|  |   |                       |
|--|---|-----------------------|
| In the Matter of                       | ) |                       |
|  | ) |                       |
| Clear Creek Mutual Telephone Company & | ) |                       |
| Western Independent Networks, Inc.,    | ) |                       |
|  | ) |                       |
| Complainants,                          | ) |                       |
|  | ) |                       |
| v.                                     | ) |                       |
|  | ) | File No. EB-05-MD-003 |
| Beaver Creek Cooperative Telephone     | ) |                       |
| Company,                               | ) |                       |
|  | ) |                       |
| Defendant.                             | ) |                       |

**ORDER**

**Adopted: February 17, 2005**

**Released: February 18, 2005**

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On January 31, 2005, Clear Creek Mutual Telephone Company and Western Independent Networks, Inc. ("complainants") filed a formal complaint against Beaver Creek Cooperative Telephone Company pursuant to section 208 of the Communications Act of 1934, as amended, 47 U.S.C. § 208. On February 14, 2005, the complainants filed a request to withdraw the complaint, without prejudice, due to a mutual agreement among the parties to proceed with mediation, instead of a formal complaint proceeding, at the present time.<sup>1</sup> Accordingly, we hereby GRANT the complainants' request to withdraw this complaint without prejudice and TERMINATE this proceeding.

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<sup>1</sup> A copy of complainants' request is attached.

2. This Order is issued pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, sections 1.720-1.722 of the Commission's rules, 47 C.F.R. §§ 1.720-1.722, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr, Division Chief  
Market Disputes Resolution Division  
Enforcement Bureau

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February 14, 2005

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Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554  
Attention: Market Disputes Resolution Division  
Enforcement Bureau

**RE: Clear Creek Mutual Telephone Company and Western Independent Networks, Inc.  
v. Beaver Creek Cooperative Telephone Company**

Dear Ms. Dortch:

Pursuant to telephone discussions on February 10, 2005 with the Market Disputes Resolution Division ("MDRD") and Beaver Creek Cooperative Telephone Company ("Beaver Creek"), Clear Creek Mutual Telephone Company ("Clear Creek") and Western Independent Networks, Inc. ("WIN") have agreed to engage in mediation with Beaver Creek with the assistance of the MDRD. In light of this agreement to engage in mediation, Clear Creek and WIN hereby withdraw the Formal Complaint against Beaver Creek that they filed with the Commission on January 31, 2005.

Clear Creek and WIN understand that their withdrawn Formal Complaint will be retained by the MDRD and used as their Mediation Statement. They further understand that Beaver Creek will file its Mediation Statement on February 28, 2005, and that Beaver Creek will not terminate the host-remote link at issue in the dispute during the course of the MDRD-assisted

mediation. Finally, Clear Creek and WIN understand and note that the withdrawal of their January 31, 2005 Formal Complaint is without prejudice to their re-submission of a similar Formal Complaint at a future date if mediation is not successful in resolving their dispute with Beaver Creek.

If there are any questions regarding this matter, please contact undersigned counsel.

Respectfully submitted,

Gerard J. Duffy

Cc: Tracy Bridgham, Esquire  
James R. Hobson, Esquire